

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

KENTON COUNTY WATER DISTRICT NO. 1)	
)	
_____)	CASE NO.
)	92-482
AN INVESTIGATION INTO THE MONTHLY)	
SURCHARGE ON SUB-DISTRICT A CUSTOMERS)	

O R D E R

On November 24, 1992, the Commission ordered Kenton County Water District No. 1 ("Kenton District") to show cause why certain limitations and restrictions should not be placed on the collection and accounting of proceeds from the surcharge which it assesses its Sub-District A customers, why additional reporting requirements should not be attached to the assessment of this surcharge, and why this surcharge should not be adjusted to reflect changing debt service and customer levels.

Following the commencement of this proceeding, Kenton District and Commission Staff entered into negotiations. On March 31, 1993, a Settlement Agreement was executed and submitted to the Commission for approval.

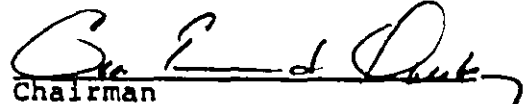
After reviewing the Settlement Agreement and being otherwise sufficiently advised, the Commission finds that the Settlement Agreement is in accordance with the law, does not violate any regulatory principle, results in a reasonable resolution of this case, and is in the public interest.

IT IS THEREFORE ORDERED that:


1. The Settlement Agreement, appended hereto, is incorporated into this Order as if fully set forth herein.
2. The terms and conditions set forth in the Settlement Agreement are adopted and approved.
3. This case is closed and shall be removed from the Commission's docket.

Done at Frankfort, Kentucky, this 19th day of April, 1993.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director

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PUBLIC SERVICE
COMMISSION

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SETTLEMENT AGREEMENT

THIS AGREEMENT is made and entered into this 31st day of March, 1993, by and between the STAFF OF THE PUBLIC SERVICE COMMISSION OF KENTUCKY ("Commission Staff") and KENTON COUNTY WATER DISTRICT NO. 1 ("Kenton District").

W I T N E S S E T H :

THAT, WHEREAS, on April 27, 1992, Kenton District, pursuant to KRS 278.023, applied for a certificate of public convenience and necessity to construct certain water mains to serve its newly created Sub-District A, for approval of its financing plan, and for authority to assess a surcharge to Sub-District A customers;

WHEREAS, on May 14, 1992, the Public Service Commission ("Commission") in Case No. 92-179 authorized Kenton District to, inter alia, assess a monthly surcharge of \$24.34 to Sub-District A customers, but placed no limitations on the use of surcharge proceeds or the amount of surcharge collections;

WHEREAS, on November 24, 1992, the Commission ordered Kenton District to show cause why certain limitations and restrictions should not be placed on the collection and accounting of surcharge

proceeds, why additional reporting requirements should not be imposed, and why the surcharge should not be adjusted to reflect changing debt service and customer levels;

WHEREAS, Commission Staff and Kenton District stipulate:

1. Kenton District is a water district formed under KRS Chapter 74.
2. On April 27, 1992, Kenton District applied to the Commission for a certificate of public convenience and necessity to construct certain water mains to serve its Sub-District A and for approval of its plan to finance this construction.
3. Kenton District proposed to finance the \$1,608,744 cost of the proposed project from the following sources: (a) Community Development Block Grant (\$750,000); (b) a low interest loan from Kenton County Fiscal Court (\$50,000); (c) customer paid connection fees (\$38,000); and (d) proceeds of a Kenton District Revenue Bond Issue (\$770,744).
4. According to its application, Kenton District intended to provide interim financing with the issuance of \$800,000 of five-year bond anticipation notes. Kenton District proposed refinancing these notes with revenue bonds maturing over a 20-year period.
5. Kenton District's proposed financing plan also included the assessment of a monthly surcharge of \$24.34 to Sub-District A customers. Proceeds of this surcharge would service the debt instruments issued to finance the water main construction. The level of the proposed surcharge was based upon Sub-District A serving approximately 235 customers.
6. In its application, Kenton District asserted that KRS 278.023 governed the Commission's review of its application.
7. On May 14, 1992, the Commission granted Kenton District a certificate of public convenience and necessity to construct the proposed water mains, approved its financing plan and authorized the proposed monthly surcharge for Sub-District A customers. In its Order of May

14, 1992 in Case No. 92-179, the Commission found that KRS 278.023 did "not grant the Commission any discretion authority to modify or reject any portion" of the application.

8. As to the proposed water main construction project, Kenton District was not a party to any agreement with either the Kentucky Department of Local Government (DLG) or the U.S. Department of Housing and Urban Development (HUD).
9. DLG administers the Community Development Block Grant Program for HUD in the state of Kentucky.
10. Kenton County Fiscal Court entered into an agreement with DLG for a \$750,000 Community Development Block Grant to fund the proposed water main construction.
11. On September 24, 1991, Kenton District entered into a cooperation agreement with Kenton County Fiscal Court for the administration of the Community Block Development Grant awarded to Kenton County Fiscal Court for the proposed water main construction. A copy of this Agreement is attached as Exhibit A.
12. Kenton County Fiscal Court provided \$50,000 to Kenton District in the form of a deferred payment loan at 3 percent interest. The loan will become due and payable only after sufficient customers are obtained to reduce user rates to approximately \$26.00 per month. A copy of the resolution authorizing this loan is attached as Exhibit B.
13. Since the issuance of the May 14, 1992 Order, Kenton District has made several changes to its financing plan. Instead of issuing interim bond anticipation notes, Kenton District issued \$800,000 of Kenton District Revenue Bonds maturing over a 25-year period. The Commission authorized the issuance of these bonds by Order dated November 6, 1992 in Case No. 92-400.
14. Kenton District substantially completed construction of the water main extension and began serving Sub-District A customers in November 1992. It billed approximately 212 Sub-District A customers for service in

December 1992 and approximately 234 Sub-District A customers for service in January 1993. Kenton District expects to serve an additional 42 Sub-District A customers by December 31, 1993.

15. On December 10, 1992, Kenton District issued 25-year Revenue Bonds, the proceeds of which were used, inter alia, to finance the proposed water main construction. The total cost to service the bonds devoted to the proposed water main construction is \$1,527,490.

WHEREAS, Kenton District and Commission Staff desire to settle the issues raised by this proceeding.

NOW, THEREFORE, Kenton District and Commission Staff agree as follows:

1. Kenton District shall continue to assess the monthly surcharge authorized in Case No. 92-179 to its Sub-District A customers. Surcharge proceeds will be used only to service the debt issued to finance the construction of the facilities certificated in Case No. 92-179.

2. Effective May 1, 1993, Kenton District shall reduce the level of its monthly surcharge from \$24.34 to \$22.73. Kenton District shall, within ten days of Commission approval of this Agreement, file revised tariff sheets which state the reduced surcharge level and which further state that Kenton District will cease assessing the surcharge when surcharge billings total \$1,577,490.

3. Kenton District shall cease assessing the surcharge when surcharge billings total \$1,577,490. In the event Kenton District refinances the bonded indebtedness authorized in Case No. 92-400,

the Commission may adjust the total revenue which Kenton District may bill and collect from the surcharge to comport with the change.

4. Beginning May 1, 1993, Kenton District shall identify the surcharge as a separate line item on its bills to Sub-District A customers.

5. On April 1, 1994, and each year thereafter so long as Kenton District assesses the monthly surcharge, Kenton District will adjust the surcharge level to reflect the number of Sub-District A customers as of December 31 of the preceding year and the outstanding debt service requirements on the debt which was issued to finance the subject facilities.

6. Beginning in 1994, for the period November 1992 through December 1993 and for each calendar year thereafter in which the surcharge is effective, Kenton District shall, when submitting the annual financial and statistical report required by Commission Regulation 807 KAR 5:006, Section 3(1), also submit a written report listing

- (a) the number of customers in Sub-District A as of December 31 of the preceding year;

- (b) total surcharge billed during the preceding calendar year;

- (c) accumulated surcharge billed; and

- (d) remaining debt service on the debt which Kenton District issued to finance the facilities in question.

7. This Settlement Agreement is subject to the approval of the Commission.

8. Commission Staff will recommend to the Commission that this Settlement Agreement be approved and that this proceeding be closed and removed from the Commission's docket.

9. If the Commission fails to accept and approve this Settlement Agreement in its entirety, this proceeding shall go forward and neither the terms of this Settlement Agreement nor any matters raised during settlement negotiations shall be binding on any signatory.

10. If the Commission accepts and adopts this Agreement in its entirety and enters an Order in this proceeding to that effect, Kenton District shall not apply for rehearing in this proceeding nor bring an action for review of that Order in Franklin Circuit Court.

11. This Settlement Agreement is submitted for purposes of this case only and is not binding upon the signatories in any other Commission proceeding nor is it to be offered or relied upon in other Commission proceedings involving the signatories.

AGREED TO BY:

KENTON DISTRICT

BY: James M. Honaker

March 30, 1993
Date

Title: Counsel for Kenton District

COMMISSION STAFF

BY: Dwight O. White

31 March 1993
Date

Title: Counsel for Commission Staff

EXHIBIT A

COOPERATION AGREEMENT BETWEEN
KENTON COUNTY, KENTUCKY AND THE
KENTON COUNTY WATER DISTRICT

THIS AGREEMENT, entered into this 24th day of September, 1991, by and between the Kenton County Fiscal Court, Covington, Kentucky (hereinafter called "Grantee") and the Kenton County Water District (hereinafter called "LPA");

WITNESSETH:

Kenton County, Kentucky, acting pursuant to an Order by the Fiscal Court, has received approval of an application filed with the Kentucky Department of Local Government, Division of Community Programs (hereinafter called the "State") for funding of a Fiscal Year 1991 CDBG Program in accordance with provisions of the Kentucky Community Development Block Grant Program. The specific project, for which the funding under the Kentucky Community Development Block Grant Program has been obtained is for extension of waterlines in the Kenton County Water District.

Title I of the Housing and Community Development Act of 1974, as amended through P.L. 97-35, requires that grant award and administration be initiated by either a City or a County applicant, unless a Cooperation Agreement is prepared between said City or County and a City/County entity established under KRS Chapter 74. In accordance with requirements for a Cooperation Agreement for the Kenton County Water District to administer the proposed Community Development Block Grant Public Facilities Program, Kenton County, Kentucky, and the Kenton County Water District agree as follows:

1. That the United States of America and the Secretary of Housing and Urban Development and the Commonwealth of Kentucky be, and

hereby are, assured of full compliance by the Kenton County Fiscal Court and the Kenton County Water District with certifications relating to all regulations and administration of Civil Rights Acts, citizen participation, relocation payments, acquisition policies, accounting procedures, the Hatch Act, minimum wage and minimum hour provisions of the Fair Labor Standards Act and all requirements of the National Environmental Policy Act of 1968;

2. That all policy decisions relating to types of activities included in the application will be approved by the Grantee;
3. That the Kenton County Water District (LPA) is hereby designated as the agent for the Grantee in administering and implementing the Community Development Program;
4. That the Kenton County Water District (LPA) will approve all reports, expenditures and other correspondence and data necessary to implement the program and reports on said implementation will be made to the Grantee each month for their information;
5. That Dennis Willaman, Manager, acting as agent for the Kenton County Water District, is hereby designated as official representative to coordinate the Community Development activities with the Kenton County Water District and the Judge Executive of Kenton County is designated as the official representative to coordinate the Community Development Block Grant Program with County activities. Members of the Kenton County Fiscal Court shall be kept fully informed of all activities and shall be invited to all meetings relating to the CDBG Program;
6. That this Cooperation Agreement is in effect until the completion of the fiscal year 1991 Community Development Block Grant Program is approved by the Commonwealth of Kentucky;
7. That decisions made relating to activities and/or programs will be made giving consideration to the citizen input;
8. That the Chief Executive of the County will be authorized to sign the standard forms for execution of the grant to the Kentucky Department of Local Government.

IN WITNESS WHEREOF, the Judge Executive of Kenton County, Kentucky, and the Manager of the Kenton County Water District have respectively signed this agreement and caused their respective seals to be affixed and attested as of the date and year first written above.

SEAL

ATTEST:

Carol Brockell

SEAL

KENTON COUNTY, KENTUCKY

David M. Hutton
JUDGE EXECUTIVE

ATTEST:

Jessie L. Williams

KENTON COUNTY WATER DISTRICT

Dennis L. Williams
MANAGER

R E S O L U T I O N

WHEREAS, the Fiscal Court submitted an application with the Kentucky Department of Local Government in May, 1991 for a \$750,000 Community Development Block Grant for Phase I of a water project in southern Kenton County; and

WHEREAS, in September, 1991 the Department of Local Government awarded Kenton County with a \$500,000 grant for the project instead of the amount originally requested; and

WHEREAS, the Fiscal Court desires to submit an amended application which seeks to increase the \$500,000 grant by \$250,000 to the original \$750,000 requested, and as a part of said amended application agrees to provide \$50,000 local match in the form of a deferred payment loan at three (3) percent interest.

NOW, THEREFORE, BE IT RESOLVED BY THE FISCAL COURT, COUNTY OF KENTON, COMMONWEALTH OF KENTUCKY THAT:

The Kenton County Fiscal Court hereby authorizes its Judge/Executive Clyde W. Middleton to sign an amended application for Phase I of the southern Kenton County water project formally requesting the \$250,000 in additional grant funds and further agrees, as a part of the amended application, to make a \$50,000 deferred payment loan at three (3) percent interest to the project from its Economic Development Revolving Loan Fund. This loan would become due and payable only after sufficient customers are obtained in order to reduce the user rates to approximately \$26.00 per month.

This the 11th day of February, 1991.

FISCAL COURT OF
KENTON COUNTY, KENTUCKY

BY:


CLYDE W. MIDDLETON
KENTON COUNTY JUDGE/EXECUTIVE

ATTEST:


FISCAL COURT CLERK